

**ONEIDA JUDICIARY**  
Tsi nu téshakotiya?tolétha?

---

**TRIAL COURT**

---

**Oneida Nation / Oneida Police Department,**  
**PETITIONERS,**

**v.**

**Robert J. Legest, Jr.**  
**DEFENDANT**

**CASE NO: 23-CT-037**  
**23-CT-038**

**DATE: June 16, 2023**

---

**ORDER**

---

This case has come before the Oneida Trial Court, Honorable John E. Powless III presiding.

*Appearing In-person:* Attorney Kelly McAndrews, representing the Petitioners; Defendant, Robert J. Legest, Jr.

**Background**

In accordance with 3 O.C. 309, Defendant was issued *Disorderly Conduct*, 1<sup>st</sup> Offense and *Trespass*, 1<sup>st</sup> Offense citations. The Disorderly Conduct violation does not require Defendant to appear, while Trespass does require the Defendant to appear. These citations are the result of an incident that occurred on April 11, 2023. On June 15, 2023, a pre-trial hearing was held. At the pre-trial hearing, the parties submitted a stipulation and agreement for the Court's consideration.

**Principles of Law**

Oneida Code of Laws Title 3. Health and Public Safety - Chapter 309 Public Peace:

309.6. Civil Infractions Against the Peace

309.6-1. *Disorderly Conduct*. A person commits the civil infraction of disorderly conduct if he or she engages in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance. A civil infraction of disorderly conduct may include, but is not limited to, the following behaviors:

- (a) fights with another person within the boundaries of the Reservation;
- (b) discharges a firearm or air gun that is prohibited;
- (c) makes or causes to be made any loud, disturbing or unnecessary sounds or noises which may annoy or disturb a person of ordinary sensibilities;

(1) Between the hours of 10:00 p.m. and 6:00 a.m. any excessive noise shall be prohibited.

(d) abuses or threatens a person on Tribal property in an obviously offensive manner;

(e) lies or sleeps on any street, alley or sidewalk, or in any other Tribal property, or upon private property that he or she has no right to occupy; or

(f) uses abusive, indecent, profane, or vulgar language in Tribal property, and the language by its very utterance tends to incite an immediate breach of the peace.

### 309.5 Civil Infraction Against Property

309.5-3. *Trespass*. A person commits the civil infraction of trespass if he or she:

(a) enters or remains on private property or Tribal property without consent and he or she:

(1) had notice that the entry was forbidden; or

(2) received notice or order to depart but failed to do so.

(b) Notice. Notice or an order to depart may be given by:

(1) written or verbal communication given to the intruder by an Oneida Police Department officer, the owner of the property, or a person authorized to act on behalf of the owner;

(2) written notice posted on or about the property in a manner reasonably likely to come to the attention of potential intruders; or (3) fences, barricades, or other devices manifestly designed to enclose the property and to exclude potential intruders.

### Analysis

The Defendant was cited for violating section 309.6-1, *Disorderly Conduct*, 1<sup>st</sup> Offense and section 309.5-3, *Trespass*, 1<sup>st</sup> Offense. The Disorderly Conduct violation carries a \$250.00 fine and \$25.00 court costs, and the Trespass violation resulted in a \$250.00 fine and \$25.00 in court costs. The parties propose to dismiss the Disorderly Conduct citation and Defendant pleads no-contest to Trespass, 1<sup>st</sup> Offense, reducing the \$250.00 fine to \$50.00 and \$25.00 in court costs, due to the Judiciary within thirty (30) days from the Court approving this agreement.

### Finding of Facts

1. The Court has subject matter and personal jurisdiction over this matter.
2. The Defendant received proper notice of this hearing.
3. The Defendant was issued the following citation for an incident that occurred on April 11, 2023:

- a. *Disorderly Conduct*, 1<sup>st</sup> Offense.
    - i. This violation does not require a mandatory appearance.
  - b. *Trespass*, 1<sup>st</sup> Offense.
    - i. Defendant's appearance is mandatory for this violation.
4. A pre-trial hearing was held June 15, 2023.
  5. Defendant acknowledged his rights at the pre-trial hearing.
  6. At the pre-trial hearing, the parties proposed the following stipulation for the Court's consideration:
    - a. Dismiss *Disorderly Conduct*, 1<sup>st</sup> Offense citation.
    - b. Defendant pleads no-contest to *Trespass*, 1<sup>st</sup> Offense.
      - i. Reduce \$250.00 fine to \$50.00
      - ii. \$25.00 in court costs.
      - iii. Fine and court costs must be paid to the Judiciary within thirty (30) days of this signed order.

### Order

1. The Court accepts and approves the agreement of the parties as described below:
  - a. Dismiss 23-CT-038, 309.6-1, *Disorderly Conduct*, 1<sup>st</sup> Offense violation.
  - b. Reduce 23-CT-037, 309.5-3, *Trespass*, 1<sup>st</sup> Offense fine to \$50.00 and \$25.00 in court costs, and Defendant pleads no-contest to *Trespass*, 1<sup>st</sup> Offense.
    - i. The total fine and court costs of \$75.00 shall be paid to the Judiciary within thirty (30) days from the date this order is signed.

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary pursuant to Resolution 01-07-13-B of the General Tribal Council this Order is signed on June 16, 2023.

  
John E. Powless III, Trial Court Judge